

III. **Remarks**

A. **Amendments to the Claims**

Claim 1 has been amended to further clarify and define the feature of the invention that the detergent or cleaner is a three-layer tablet, comprising a defined viscoelastic phase in the form of a layer between two tableted phases in the form of layers. Claim 1 now includes the requirement that one side of each of the tableted layers is entirely in contact with the viscoelastic phase. Support for the amendment is provided in the specification, for example, at page 55, lines 13–29 and at page 62, lines 5–11.

B. **Rejection under 35 U.S.C. § 103**

Claims 1–25 are rejected under 35 U.S.C. § 103(a) as being unpatentable over United States Patent No. 6,548,473 to Thoen et al.

1. **Examiner's Reasons for the Rejection**

The Examiner's reasons for the rejection are as follows:

Jacques Kamiel Thoen et al. disclose a multi-layer detergent tablet having both a compressed and non-compressed portion comprising, in the non-compressed portion of said multi-layered tablet, at least 0.01% of a surfactant (col. 14, lines 54–61) and in particular anionic surfactants such as linear alkyl benzene sulfonate (col. 21, lines 32–42). Jacques Kamiel Thoen et al. further disclose the inclusion of builders in an amount from 10–80% by weight (col. 27, lines 41–50) and the at least one non-compressed portion of the detergent tablet is equal to or less than the compressed mold portion of the tablet (col. 51, lines 11–25).

Jacques Kamiel Thoen et al. do not specifically teach that said phase is a viscoelastic phase having storage modulus of between 40,000 and 800,000 Pa and a phase shift in the range of 0 to 30 degrees Celsius.

It would have been obvious to one of ordinary skill in the art to expect the compositions of Jacques Kamiel Thoen et al. to comprise a storage modulus or phase shift as claimed in the non-compressed layer because Jacques Kamiel Thoen et al. teaches the use of alkyl benzene sulfonates as surfactants that may be used in the non-compressed phase of the tablet composition and the skilled artisan would expect similar properties, in the absence [of] a showing to the contrary. Furthermore, the court held "it is not necessary in order to establish a *prima facie* case of obviousness . . . that there be a suggestion or expectation from the prior art that the claimed [invention] will have the same or a similar utility as one newly discovered by applicant," and concluded that here a *prima facie* case was established because "[t]he art provided the motivation to make the claimed compositions in the

expectation that they would have similar properties." *In re Dillon*, 919
F.2d 693, 16 USPQ2d 1901 (Fed. Cir. 1990), cert. denied.

(Examiner's Action, page 2, line 6 to page 3, line 6).

The Examiner has also contended that Thoen et al. specifically discloses three-layer tablets in which a non-compressed portion exists between two compressed portions.

**2. Comparison of Applicants' Claimed Subject Matter
and the Thoen et al. patent**

As noted above, claim 1 has been amended to further clarify and define the detergent or cleaner three-layer tablet comprising a defined viscoelastic phase in the form of a layer placed between two tableted phases in the form of layers. Claim 1 now includes the requirement that one side of each of the tableted layers is entirely in contact with the viscoelastic phase. The remaining claims 2–25 are dependent upon claim 1, or upon a claim which is ultimately dependent upon claim 1. Accordingly, claims 2–25 also comprise the subject matter included in claim 1.

Thoen et al. is directed to a detergent tablet having a compressed solid body portion and a non-compressed, portion within part of the tablet in the form of one or more molds. In other words, the Thoen et al. tablet has in the part of the tablet where there exist no molds a single compressed layer, and in the part of the tablet where there exists a mold, a three-layer tablet. Accordingly, Thoen et al. does not disclose, exemplify or even suggest to one of ordinary skill in the art Applicants' claimed detergent or cleaner three-layer tablet comprising a defined viscoelastic phase in the form of a layer between two tableted phases in the form of layers so that one side of each of the tableted layers is entirely in contact with the viscoelastic phase. Instead, Thoen et al. discloses a tablet comprising in part a single layer of a compressed solid body. See, for example, the Abstract of the Thoen et al. patent. The Abstract discloses that the ratio of the surface area of the mold (identified as B) to the surface area of the tablet, excluding the area of said at least one mold (identified as A) is from about 1 to 50 to about 4 to 1 by area. As in Thoen et al. the mold cannot comprise the entire surface area of the tablet, one side of each of the tableted layers cannot be entirely in contact with the non-compressed phase in the mold. Furthermore, Thoen et al. is silent about whether the non-compressed phase is viscoelastic.

3. There Is No *Prima Facie* Case of Obviousness Supporting the Rejection of Claims 1–25 as Unpatentable Over Thoen et al.

Under Section 2142 of the Manual of Patent Examining Procedure:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

As set forth above, Thoen et al. does not teach or suggest to one of ordinary skill in the art the limitation set forth in claim 1 that the detergent or cleaner three-layer tablet comprises a viscoelastic phase in the form of a layer placed between two tableted layers, wherein one side of each of the tableted layers is entirely in contact with the viscoelastic phase. As claims 2–25 are dependent directly or indirectly upon claim 1, and therefore include the subject matter of claim 1, Thoen et al. also does not teach or suggest to one skilled in the art all of the claim limitations in claims 2–25. Therefore, no *prima facie* case can be made that claims 1–25 are obvious over Thoen et al.

Accordingly, for the reasons set forth above, a rejection of claims 1–25 under 35 U.S.C. § 103(a) as unpatentable over Thoen et al. is untenable and should be withdrawn.

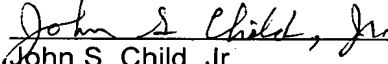
IV. Conclusion

It is believed that the above Amendment and Remarks constitute a complete response under 37 CFR § 1.111 and that all bases of rejection in the Examiner's Action have been adequately rebutted or overcome. A Notice of Allowance in the next Office Action is, therefore, respectfully requested. The Examiner is requested to telephone the undersigned attorney if any matter that can be expected to be resolved in a telephone interview is believed to impede the allowance of pending claims 1-25 of United States Patent Application Serial No. 10/694,549.

Respectfully submitted,

PAUL AND PAUL

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John S. Child, Jr.
Registration No. 28,833)
Suite 2900
2000 Market Street
Philadelphia, PA 19103-3229
Telephone: (215) 568-4900
Facsimile: (215) 567-5057
Attorneys for Henkel KGaA

CORRESPONDENCE ADDRESS

Customer No. 000055495
Paul and Paul
Suite 2900
2000 Market Street
Philadelphia, PA 19103-3229

Order No. 4720